

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Leanne Fornelli	Team: Squad #8	CCRB Case #: 201506103	<input checked="" type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Friday, 02/06/2015 3:23 PM	Location of Incident: [REDACTED]	Precinct: 44	18 Mo. SOL 8/6/2016	EO SOL 8/6/2016	
Date/Time CV Reported Thu, 07/23/2015 4:14 PM	CV Reported At: CCRB	How CV Reported: Phone	Date/Time Received at CCRB Thu, 07/23/2015 4:14 PM		

Complainant/Victim	Type	Home Address
[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]

Witness(es)	Home Address
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]

Subject Officer(s)	Shield	TaxID	Command
1. LT Paul Gaglio	00000	900141	044 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Christopher Ventura	13743	951386	044 PCT
2. POM Christopher Egan	14190	935336	044 PCT
3. POM Denis Regimbal	12295	951122	044 PCT

Officer(s)	Allegation	Investigator Recommendation
A . LT Paul Gaglio	Force: Lt. Paul Gaglio used a chokehold against Angela Otero.	A . § 87(2)(g) [REDACTED]
B . LT Paul Gaglio	Other: There is evidence suggesting Lt. Paul Gaglio provided B . a false official statement in violation of PG 203-08.	B . § 87(2)(g) [REDACTED]

Case Summary

On February 6, 2015, at 3:23 p.m., at § 87(2)(b) in the Bronx (time and location established from video footage of the incident; Board Review (BR) 1), 11-year-old § 87(2)(b) was arrested for robbery in the second degree by officers from the 44th Precinct. The following was alleged: Lt. Paul Gaglio used a chokehold against § 87(2)(b) (**Allegation A**). There is evidence suggesting that Lt. Gaglio provided a false official statement in his testimony to Bronx Family Court (**Allegation B**).

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)'s legal representative, § 87(2)(b) filed this complaint on § 87(2)(b)'s behalf with the Civilian Complaint Review Board (CCRB) on July 23, 2015. § 87(2)(b) witnessed no part of the incident.

Mediation, Civil and Criminal Histories

- § 87(2)(b)'s arrest (BR 4) and the notice of claim (BR 5) filed in regard to this incident rendered this case ineligible for mediation.
- On April 25, 2015, § 87(2)(b)'s father, § 87(2)(b) and a friend, § 87(2)(b), filed a notice of claim (BR 5) with the City of New York claiming loss of liberty, mental anguish, physical and emotional injuries, pain and suffering, embarrassment, humiliation, shame, indignity, reputation damages, and future psychiatric damages, legal fees and expenses. The notice of claim notes that the full and fair damages are to be determined by a jury and may exceed \$1 million.
- As § 87(2)(b) is a juvenile (born § 87(2)(b)), any past criminal convictions are inaccessible in Office of Court Administration records.

Civilian and Officer CCRB Histories

- This is the first CCRB complaint filed by § 87(2)(b) (BR 6) and the first involving § 87(2)(b) (BR 7).
- Lt. Gaglio has been a member of service (MOS) for 23 years and his CCRB history includes the following (BR 8): Fifteen allegations were pled against him in 8 other cases. None of these allegations were substantiated. In CCRB 200906168, an allegation of a chokehold was unsubstantiated.

Findings and Recommendations

Allegations not Pled

- **Abuse of Authority:** § 87(2)(b) denied stealing the cellphone of § 87(2)(b) (identified via the complaint report from the incident; BR 9), the complainant of the robbery. § 87(2)(b)'s denial amounts to an arrest dispute, as she was charged with the robbery of the cellphone (BR 4). Thus, an allegation of a stop was not pled against Lt. Gaglio.
- **Force:** As § 87(2)(b) (BR 10) said that her breathing was not restricted during the chokehold, this allegation of force was not pled against Lt. Gaglio.

Allegation A – Force: Lt. Paul Gaglio used a chokehold against § 87(2)(b)

§ 87(2)(b) (BR 10) said that when the officer identified via investigation as Lt. Gaglio approached her, she tried to explain what happened in regard to the circumstances of the stolen cellphone and he would not listen to her. Lt. Gaglio pushed her on her shoulders as she tried to pull and push away from him. She tried to go toward the barbershop, identified via investigation

PO Ventura (BR 15) denied witnessing this portion of the incident and said that he was down the street with § 87(2)(b) PO Christopher Egan (BR 16) of the 44th Precinct said that he responded to the scene to assist in the transport of the prisoners. He denied witnessing this portion of the incident and said that when he arrived, § 87(2)(b) was handcuffed and in a standing position.

MOS are forbidden from using a chokehold, the definition of which includes but is not limited to any pressure to the throat or windpipe which may prevent or hinder breathing, or reduce air intake, Patrol Guide (PG) Procedure 203-11 (BR 17).

§ 87(2)(g)
[REDACTED]

Allegation B – Other: There is evidence suggesting Lt. Paul Gaglio provided a false official statement in violation of PG 203-08.

§ 87(2)(b) (BR 10) said that Lt. Gaglio pushed her on her shoulders as she tried to pull and push away from him. She tried to go toward § 87(2)(b) (BR 11) because § 87(2)(b) worked there. Lt. Gaglio then placed his arm around her neck, during which time she was able to breathe. Lt. Gaglio pulled § 87(2)(b) onto the sidewalk. He turned her over so that she was face-down on the ground so that he could handcuff her. She was crying at the time, so she moved one hand to wipe her tears and then put it behind her back to be handcuffed.

§ 87(2)(b) (BR 12) said that when he saw § 87(2)(b) it seemed as if she was trying to reach the barber shop. Lt. Gaglio said, “Come here. Where are you going? Come here. Come here.” He grabbed one of § 87(2)(b)’s arms as she reached with her other arm toward the barber shop. Lt. Gaglio then grabbed § 87(2)(b) with the crook of his elbow around her neck and swung her face-down onto the ground. Lt. Gaglio then continued trying to handcuff § 87(2)(b). He told her to sit still, took one of her arms, cuffed it and then did the same with her other arm.

The video footage of the incident (§ 87(2)(b) ; BR 1) contains the following: At the 00:18 minute mark, Lt. Gaglio brings his arm around § 87(2)(b)’s neck, and she reaches for his arm with both hands. From 00:18 to 00:20, he swings her toward the ground where she lands on her left side. Lt. Gaglio immediately releases § 87(2)(b)’s neck when she makes contact with the ground. At 00:20, Lt. Gaglio rolls § 87(2)(b) who is lying on her back, onto her stomach and there is a brief pause before he does this. The reason for the pause is unclear from the footage. At 00:24, § 87(2)(b) brings both hands behind her back. Lt. Gaglio reaches for his handcuffs and momentarily releases both of § 87(2)(b)’s hands to do this, during which time, § 87(2)(b) keeps her hands in place. At 00:27, Lt. Gaglio is still retrieving the handcuffs and § 87(2)(b) brings her right arm to her face and then replaces it behind her back at 00:29. Lt. Gaglio then handcuffs § 87(2)(b) during which time § 87(2)(b) is not seen making any movement.

§ 87(2)(a) Fam. Ct. Act § 166
[REDACTED]

§ 87(2)(b)

Lt. Gaglio (BR 13) vacillated in his testimony to the CCRB in regard to whether or not § 87(2)(b) ultimately arrived to the ground, although he intended to do this, from his own efforts or as a result of slipping on the icy sidewalk. He originally said that he thought he slipped when he apprehended her, but was uncertain of this at the time of the interview. He then said that § 87(2)(b) arrived to the ground solely by his efforts. Upon reviewing his testimony in Bronx Family Court (BR 14), he could not recall if § 87(2)(b) was brought to the ground from his own efforts or because they slipped on the icy sidewalk. Upon viewing the video footage of the incident (BR 1), he said that § 87(2)(b) was brought to the ground from his efforts and they did not slip on the icy sidewalk. He reminded the undersigned investigator that he provided testimony to Bronx Family Court on § 87(2)(b) after the incident date.

In regard to § 87(2)(b)'s resistance once on the ground, Lt. Gaglio said in his CCRB interview that he could not recall how much of a problem it was to handcuff her. He could not recall her struggling at all after that or how much he flailed her arms. Upon reviewing his testimony to Bronx Family Court, his memory was prompted that § 87(2)(b) did continue to flail and thrash her body, and it took about 15 to 20 seconds to handcuff her, although it was possible it took less time. Upon reviewing the video footage of the incident, he said that the flailing and thrashing that he was referring to was when he placed § 87(2)(b) onto her stomach and she was slightly trying to roll around, and when she momentarily brought her hand to her face.

Officers are prohibited from making false official statements, PG Procedure 203-08 (BR 18).

§ 87(2)(g), § 87(2)(a) Fam. Ct. Act § 166

Squad: 8

Investigator: _____ Leanne Fornelli _____
Signature Print Date

Squad Leader: _____
Title/Signature Print Date

Attorney: _____
Title/Signature Print Date

